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Art Unit 1772

Inventor: Joseph J. Solon

Examiner Alexander S. Thomas

For: Environmentally Safe Method and Apparatus for Storage of Discarded Tire Rubber

Re: Response to Office Action of Aug. 29, 2002

This timely responds to the outstanding Office Action.

REQUIREMENT FOR RESTRICTION:

This confirms the provisional election of the method claims, with right of traversal.

The requirement for restriction is respectfully traversed:

(A) The Examiner has not established that the process as claimed in all the method claims can be used to make another materially different product than defined in the apparatus claims; for example Method Claim 1 defines the pallet configuration for transport by a fork lift truck defined in the apparatus claims.

(B) The process claims include claims that cannot be used to make other materially different products than claimed.

Accordingly the apparatus claims are retained for allowance upon reconsideration.

THE 35 USC 102B REJECTION OF CLAIMS 1, 9, 14, 16 AND 24:

Note in Miller Col 3. lines 43-46, that the disclosure is limited to "entire carcass mats, including the sidewalls" whereas the claimed invention uses tire tread strips excluding sidewalls. Thus Miller does not anticipate the claimed invention under 35 USC 102.

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Furthermore Miller does not disclose placing the bundled stacks of tire mats upon pallets without further requiring the strapping of several mats together on the pallets (Col 7, lines 50-53).

Likewise Miller does not disclose any method step of preventing the accumulation of water in strips stored on pallets, in either outside or inside warehouse conditions. Inherently the elastic memory of the sidewalls in the Miller configuration makes the mats tend to stay in a partial toroid configuration which reduces the possibility of excluding retained water pockets since the inherent memory of the toroid shape retained with the presence of the remaining integral sidewalls of Miller (and the manner of stacking Col, 7, lines 23-27 to compensate for the different thicknesses of the sidewalls and treads) thereby leaving the probability that internal water pockets will not be excluded between the carcass layers particularly when stored in the outside environment on pallets. Note that excessive force must be used in bundling Miller's carcasses to make the treads flat enough to lie on pallets in rubber to rubber contact as in applicant's pallet storage configurations of "substantially flat storable sections".

Also note the additional labor and expense required by Miller to prepare the sidewalls into precut special shapes before forming bundles of carcass mat layers, which is avoided by applicant's exclusion of the sidewalls in the structurally different claimed rubber-to-rubber interfacing between the substantially flat sections being stacked by applicant, as claimed.

Additionally Miller teaches (Col 7, lines 46-63) the requirement of strapping

together multi-layered bundles for permitting manual movement and rolling procedures, inconsistent with the claimed invention of applicant.

Claim 1 is amended to exclude the attached sidewalls of Miller. Thus a favorable action is respectfully requested since the structure of Claim 1 is not anticipated by Miller.

Claim 9 is amended to define the feature of storing the flat tire sections on the pallets outside in the environment thereby to avoid accumulation of water and breeding of mosquitos. As seen from Miller Col. 4, lines 37-42, there is no teaching of storing substantially flat tire strips in stacks on pallets in compact rubber-to-rubber interfacing configurations to avoid the accumulation of water when resident in the outside environment. Nor could the Miller structure inherently perform this critical function. Thus the 35 USC 102B rejection ground is fully overcome and claim 9 is patently presented.

Claim 16 requires that the flat treaded strips be longer than the width or length dimensions of the pallet and folded into a U-shaped configuration with the strip ends alternately interlocked between the two ends of an adjacent strip to substantially fill the inner end of the U-shaped configuration. This structure is entirely inconsistent with the Miller teachings and thus the Examiner has not set forth sufficient structural disclosure in Miller to support the 35 USC 102B rejection ground . Accordingly it is respectfully requested that Claim 16 be allowed upon reconsideration.

Claim 24 is amended to exclude the sidewalls and to have the tire tread strips of substantially constant thickness thereby to overcome the 35 USC 102B rejection ground. Note the admitted inconsistency of the Miller structure in Col 7, lines 23-26 to the

substantially constant thickness strips of applicant. Thus the rejection ground is fully overcome and Claim 24 is presented for a favorable action.

The only rejection ground (35 USC 102B) thus has been fully overcome for claims 1, 9, 14, 16, and 24 and thus also overcomes the 35 USC 103 rejection grounds of the remaining rejected claims dependent thereon to place this case in condition for immediate allowance. Thus the claims not dependent upon Claim 1, namely 17, 19 and 24, are shown hereinafter to be patently presented. In this respect note that the rejected apparatus claims 18-21 correspond in entirety to similar respective method claims 1, 13, 11, 16.

Claims 22 and 23 are cancelled without prejudice to reduce issues.

Thus Claims 1 to 21, and 24 are patentably presented for putting this case into condition for immediate allowance.

IN THE DRAWINGS:

In order to place this case into condition for immediate allowance, the formal drawings are herewith submitted.

THE REJECTION OF CLAIMS 2, 11 AND 15 UNDER 35 USC 103(A) OVER MILLER

It is clear from Col. 4, lines 37-42 and those following of Miller that there was no suggestion or possibility suggested that any outside storage in the environment on the pallets could preclude the collection of stagnant water. It has been above shown that the retention of toroidal memory in the Miller configuration and the difference of thickness of the sidewalls and the tread could not preclude the accumulation of water if stored on

pallets in the outside environment. Thus the claimed features are not made obvious from Miller.

Additionally the Examiner admits that Miller does not disclose the claimed features of completely filling the pallet, storing the pallets outdoors, or storing the pallets side by side and upon each other, so that these teachings could not have been suggested by Miller.

Nowhere has Miller demonstrated the problem of outside storage of tires while avoiding the storage of water and breeding of mosquitos. The recognition of this problem and its solution by applicant thus is a significant improvement in the art and not just an obvious variation. Applicant's objective was to avoid breeding of mosquitos in outside storage of tire carcasses in the environment, and Miller's stacked tire mats could not achieve this objective.

Note also that the structure of the parent claims is patentably distinct.

Accordingly Claims 2, 11 and 15 are presented for a favorable action upon reconsideration.

**THE 35 USC 103(a) REJECTION OF CLAIMS 10, 13 and 17 OVER MILLER IN
VIEW OF PIGNATARO**

This rejection ground is premised upon the disclosure of the invention by Miller, which has been overcome heretofore by amendments to the claims and establishing material deficiencies in the Miller disclosure. Thus, allowance of these claims upon reconsideration is respectfully solicited.

It is pertinent to the claimed invention that the removal of the sidewalls from the tread is pertinent to achieving applicant's breakthrough in the art of storing loaded pallets of tire tread strips outdoors in the environment without accumulation of water for breeding mosquitos, as above set forth. Rubber-to-rubber contact without creating pockets for accumulation of water is not possible with the thinner sidewalls integrally attached to the thicker treads as taught by Miller.

Pignataro in the cited Col. 1, lines 12-18 and; Col. 3, lines 60-64 does not teach the storage of the tires on pallets in the outdoor environment in a manner precluding the accumulation of water to breed mosquitos, but only transportation of tire treads on some undefined transport vehicle to a central recycling facility for further processing.

What the Examiner rejects as obvious, namely: the removal of sidewalls from the tread in the primary Miller to provide a uniform article for transportation, would destroy the pertinent Miller mat structure and be contrary to the teachings of Miller, which is not 35 USC 103(a) obviousness.

Claim 10 requires the loading of removed sidewall sections on the pallet platform and strapping them in place (applicant's Fig. 8), which is inconsistent with both citations.

Claims 13 and 17 define an interlocked self-supporting rubber-to-rubber configuration of tread strips without supporting bolts or hardware adapted to resist lateral movement of the strips during transport on a pallet by a fork lift truck (Fig. 9). Nothing in either reference suggests or discloses such structure, and in essence both references teach away from such structure or method.